

Information sharing (or not) among.... programs, divisions, and agencies

Segment 1-0



### **Key Issues**

- Single vs. Hybrid Entity
  - Sharing internally and externally
- Implications for Tracking Disclosures
- Public Health
  - Use and disclosure as public benefits, public health or oversight agency
- Minimum Necessary Implications

# Part I

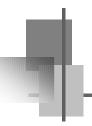
- Entity Status
  - Sharing internally and externally

Tracking Disclosures



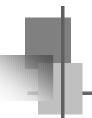
# **Hybrid Entity Status**

- Agencies that have multiple functions can choose to designate the agency as a "Hybrid Entity".
- Hybrid Entity is a single legal entity that is a covered entity and whose covered functions are not its primary functions.
  - Proposed Change: Hybrid entity is a single legal entity whose business activities include both covered and noncovered functions...
- Under Either version, multi-function agencies can utilize hybrid status.



## Health Care Component

- Health Care Component Covered Entity
  - Health Plan
  - Health Care Provider
  - Health Care Clearinghouse
  - Perform the functions of a health care plan, health care provider and health care clearinghouse



# Health Care Components

- Must designate "health care components"
  - Hybrid entity must ensure health care component complies with requirements
  - Privacy requirements apply only to health care components
  - Hybrid must ensure no uses or disclosures between health care component and other parts except as allowed under privacy
  - Workforce members with duties to multiple components have special requirements



### **Entity Status**

#### **Pros**

- Limited Application
- Targeted Training

#### Cons

- Internal system firewalls and/or safeguards between programs
- Information shared outside health care component may be limited or prohibited and disclosure must be tracked
- Only certain staff have access to information
- Clients may view inconsistent treatment and more forms as problematic

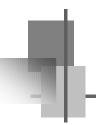


# Overall Status - Decide and Document

- Determine application of privacy
  - Health care component or all of Entity
- Document Decision factors and Application
- Communicate to Stakeholders
  - Staff, Clients, Trading partners
- Retain Documentation in accordance with rule



- Individuals have a right to Accounting Entity must Track Disclosures, 164,528
- Exceptions include Disclosures for:
  - treatment, payment, and health care operations
  - To the individual or Facility Directory and persons involved in care
  - National Security or Intelligence
  - Inmate PHI to Correctional Facility or Law Enforcement having custody (conditions apply)
  - Disclosures prior to compliance date
- Potential Change: Would add disclosures authorized by individuals to exception



### Disclosure Tracking

- Disclosures required by law, for public health, or oversight must be tracked
- Public Health and Social Services
  - Hybrid Entity Status increase "disclosures" because sharing outside the health care component is a "disclosure".
  - Disclosures to "sister agencies" subject to tracking



## Disclosure Tracking

- The frequency, periodicity, or number of the disclosures made during the accounting period.
- The date of the last such disclosure during the accounting period.
- Includes disclosures to or by business associates.

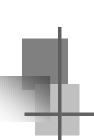


# Part II – Disclosure Authority and Minimum Necessary

- General Rules on Disclosure
- Public Benefits Program Disclosures
- Health and Health Oversight Disclosures
- Minimum Necessary Restrictions

#### General Use and Disclosure

- Covered Entities may use and disclose information for its own treatment, payment, and health care operations.
  - Treatment: provision and coordination of care and services by providers(or provider and 3<sup>rd</sup> party)
  - Payment: activities to obtain premiums or determine responsibility for coverage or benefits, to obtain or provide reimbursement for care, risk adjusting, billing claims management, collection, review of services, utilization review
  - Health care operations: quality assessment and improvement; underwriting; medical review, legal services, audit; business planning and development; management activities; customer service; greivance



# Multi-Function Uses and Disclosures

- A covered entity that performs multiple covered functions that would make the entity any combination of a plan, provider, or clearinghouse must:
  - Comply with the standards as applicable to each type of entity for that entities' functions performed, and
  - Use or disclose PHI of individuals who receive the covered entities plan or provider services, but not both, only for the purposes related to the function being performed. 164.504(g)



# Public Health Authority and Health Oversight Agency

- Public Health Authority is: a Government agency or entity acting on behalf of public agency that is responsible for public health matters as part of its official mandate.
- Health Oversight Agency is: a Government agency or entity acting on behalf of a public agency that is authorized to oversee the health care system (public or private) o government programs in which health information is necessary to determine eligibility or compliance or to enforce civil rights laws.



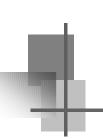
## Public Benefits Program

- Public Benefits Program is: a health plan that is a government program providing public benefits. 164.512(k)(6)
- Information Sharing:
  - may share or maintain in single data system information
  - relating to eligibility and enrollment
  - with another agency providing public benefits
  - where required or expressly authorized by law, or
  - Where both are covered and programs serve similar populations and necessary to coordinate functions or improve admin. and management



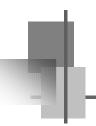
# Public Health Authority Information Disclosure/Use

- If the covered entity is also a public health authority, the covered entity is permitted to use PHI in all cases in which it is permitted to disclose such information for public health activities. 164.512(b)(2)
  - Use of PHI for child and elder abuse investigation
  - Disease, injury, or disability prevention
  - Vital Statistics
  - FDA approval and adverse effects reporting



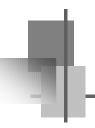
# Health Oversight Information Use

- Covered entity may disclose PHI to a health oversight entity for oversight activities authorized by law, (and is permitted to use PHI for oversight if covered entity is also a health oversight agency), including:
  - Audits, Inspections,
  - Civil, administrative, criminal investigation
  - Licensure or disciplinary actions
  - Other activities necessary to oversight of health care system; government benefits programs for which health information is relevant to eligibility;
  - 164.512(d)



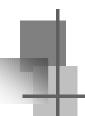
### **Public Programs**

- Implications for government entities that are covered entities and public health or health oversight agencies
  - Use of information for multiple purposes
  - Disclosing of information for purposes other than which is was received for
  - Tracking of information use and disclosure
    - Hybrid or Single Entity



### Minimum Necessary

- Entities are required to disclose only minimum necessary to accomplish task
- Changes to practices and impacts
  - Use and Disclosure of data for purpose other than original collection
  - First, is it allowed, must authorization be obtained
  - Second, what is necessary to share
  - Are protocols in place
  - Other Restrictions (accounting, limitations, etc.)



#### **Contact Information**

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#### **Questions and Comments**